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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,600	01/05/2001	John S. Holmes	9D-HR-19406- al	3857

7590 07/10/2003  
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One Metropolitan Square  
Suite 2600  
St Louis, MO 63102

EXAMINER

TANNER, HARRY B

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 07/10/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/754,600

Applicant(s)

HOLMES ET AL.

Examiner

Harry B. Tanner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-30 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other: \_\_\_\_

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Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 2 and 19, drawn to a quick chill operation, classified in Class 62, subclass 157.

II. Claims 4 and 21, drawn to dispenser operation, classified in Class 62, subclass 135.

III. Claims 5 and 22, drawn to fan control, classified in Class 62, subclass 131.

IV. Claims 6 and 23, drawn to a temperature rolling average operation, classified in Class 62, subclass 130.

V. Claims 7 and 24, drawn to a defrost operation, classified in Class 62, subclass 151.

VI. Claims 9-13 and 26-30, drawn to a damper control, classified in Class 62, subclass 187.

Claims 1, 3, 8, 14-18, 20 and 25 will be examined along with the claims directed to the elected invention.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Groups I-V and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, the invention of Group I as recited in claim 2 has separate utility such as in a system that does not require the dispensing

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operation of Group II, the fan control in response to door opening of Group III, the rolling temperature average of Group IV, the defrost operation of Group V nor the damper control of Group IV; the invention of Group II as recited in claim 4 has separate utility such as in a system that does not require the step of executing a quick chill/thaw operation of Group I, the fan control in response to door opening of Group III, the rolling temperature average of Group IV, the defrost operation of Group V nor the damper control of Group IV; the invention of Group III as recited in claim 5 has separate utility such as in a system that does not require the step of executing a quick chill/thaw operation of Group I, the dispensing operation of Group II, the rolling temperature average of Group IV, the defrost operation of Group V nor the damper control of Group IV; the invention of Group IV as recited in claim 6 has separate utility such as in a system that does not require the step of executing a quick chill/thaw operation of Group I, the dispensing operation of Group II, the fan control in response to door opening of Group III, the defrost operation of Group V nor the damper control of Group IV; the invention of Group V as recited in claim 7 has separate utility such as in a system that does not require the step of executing a quick chill/thaw operation of Group I, the dispensing operation of Group II, the fan control in response to door opening of Group III, the rolling temperature average of

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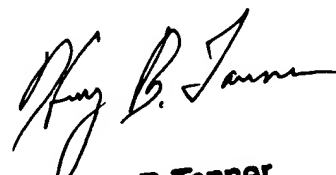
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Group IV nor the damper control of Group IV; the invention of Group VI as recited in claim 9 has separate utility such as in a system that does not require the step of executing a quick chill/thaw operation of Group I, the dispensing operation of Group II, the fan control in response to door opening of Group III, the rolling temperature average of Group IV nor the defrost operation of Group V. See M.P.E.P. § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and the search for each group is not required for the other groups restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Harry Tanner  
July 8, 2003  
703-308-2622

  
**Harry B. Tanner**  
**Primary Examiner**